

## **REMARKS**

### **I. Introduction**

Upon entry of the present amendment, claims 1-24 will be pending in the present application. By the present amendment, the abstract and the specification have been amended, and claims 1, 3, and 24 have been have been amended. No new matter has been added herein by the present amendment, as support thereof may be found in the current specification at, *inter alia*, page 5, lines 4-12, page 12, lines 7-23; and originally filed claim 1.

In view of the foregoing amendments and the following remarks, Applicant respectfully submits that the claims are now in condition for allowance. Applicant points out that the amendments made herein are made without prejudice to the future prosecution of such cancelled, amended or modified subject matter in a related divisional, continuation or continuation-in-part application.

### **II. Objection to the Specification**

The Office Action objects to the specification because it allegedly include an abstract that is not in the proper language and format, particularly, the Examiner asserts that the length of the abstract exceeds 150 words. By the present amendment, the abstract has been amended to less than 150 words, thereby complying with the required format. Applicant therefore respectfully submits that the objections to the specification have been overcome and should therefore be withdrawn.

### **III. Objection to the Drawings**

The Office Action objects to the drawings because they do not include the reference (12) for breakable connection, and because the references (102a) and (103) have both been used to designate a first covering part and the references (102b) and (104) have both been used to designate a second covering part, as described in the specification. By the present amendment to the specification the

reference (12) has been deleted from the specification and references to (103) and (104) in the specification have been amended to (102a) and (102b) respectively. Applicants submit that these objections to the drawings are related to inconsistencies between the drawings and the specification. For this reason, the amendments to the specification equally be resolve objections to the drawings. Applicants therefore respectfully submits that the objections to the drawings have been overcome and should therefore be withdrawn.

### **III. Objection to the Claims**

The Office Action objects to claim 3 because the phrase "in such a mariner as to form a seal" is unclear. By the present amendment, the claim 3 has been amended to "in such a manner as to form a seal" to correct a typographical error in this phrase. Applicant therefore respectfully submits that the objections to claim 3 have been overcome and should therefore be withdrawn.

### **IV. Rejection of Claim 10 Under 35 U.S.C. § 112, first paragraph**

Claim 10 stands rejected under 35 U.S.C. 112, first paragraph for failing to comply with the written description requirement. Claim 10, allegedly contains subject matter which was not described in the specification in such a way as to reasonably convey to the skilled artisan that the inventor(s), at the time the application was filed, had possession of the claimed invention. According to the Examiner, the claim mentions a coupling means on the first lid that can be easily broken, but the drawings in the description do not clearly state where the coupling is located.

In response, Applicants submit that it is clear throughout the drawings and indeed from the general subject of this application that the first covering part of the lid will connect to the upper edge of the substance container. This association is described as a "coupling means" in page 5, second paragraph of the application as filed wherein the presence of a "first-use" seal is also disclosed. The skilled artisan would readily comprehend the plethora of coupling means (mechanisms) that could be employed at one or more points around the first covering part of the lid and the upper edge of the container reading the disclosure of the currently claimed invention.

Thus, Applicant respectfully submits that claim 10 complies with the written description requirement and that the rejection of the claim under 35 U.S.C. § 112, first paragraph, should therefore be withdrawn.

**V. Rejection of Claims 1 to 24 Under 35 U.S.C. § 112, second paragraph**

Claims 1 to 24 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office Action states that the term “such as” in claim 1 renders the claim indefinite, the terms “edge of the container” in claim 3 and “coupling means” in claim 12 lack antecedent basis, and claim 24 is in improper form because as a dependent claim does not include all of the limitations of the claim from which it depends.

By the present amendment, the claims have been amended in accordance with 35 U.S.C. § 112, second paragraph. Specifically, claim 1 has been amended to delete the term “such as”. Furthermore, claim 1 has been amended to include a reference to “coupling means” in order to provide proper antecedence for this feature in claim 12. In addition, claim 3 has been amended to ensure antecedence for the outer edge feature of the container. This feature is depicted in Figure 7 and described on page 12, line 7f of the application as filed. Finally, claim 24 has been rewritten in independent form and therefore no longer depends from any other claim.

Thus, Applicant respectfully submits that the rejections of the claims under 35 U.S.C. § 112, second paragraph, have been overcome and should therefore be withdrawn.

**VI. Rejection of Claims Under 35 U.S.C. § 103**

Claims 1-2, 4-12, 14-22, and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Stern et al. (U.S. Patent 6,102,235) in view of Luburic (Canadian Patent No. 2,379,436) as set forth on pages 5-9 of the Office Action. Claims 3 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Stern et al and Luburic as applied to claim 2, and further in view of Rich (U.S. Patent No. 3,412,890), as set forth on pages 9 and 10 of the Office Action. Claim 23 stands

rejected under 35 U.S.C. §103(a) as being unpatentable over Stern et al. and Luburic as applied to claim 1 above, and further in view of Lallement et al. (Pre-Grant Publication No. 2001/0013518), as set forth on page 10 of the Office Action. Applicant respectfully submits that these rejections should be withdrawn for at least the following reasons.

Applicants submit that the skilled artisan would not combine the teachings of Stern and Luburic; and even if such skilled artisan were motivated to make such a combination, the combined teaching of the two cited reference fails to teach or suggest the presently claimed invention. Although the Stern and Luburic references are both concerned with lids for packaging, they are directed to different technical features of those lids.

Stern is concerned with the structure of the lid for special configuration containers in which a portion of the lid is required to act as a roller-tray, said portion being mechanically supported by the lid itself (column 2, lines 40 to 50). As such, Stern provides a disclosure of: different lid shapes and sizes; surface profiles for the lids; and, the pivoting of one part of the lid relative to another about specific hinges to form an angle ( $\alpha$ ) between them. Stern is not concerned with the interface between the lid (1) and the container (13) or the structure of the lid's border (5); Stern notably fails to provide any specific details regarding the connection of that border (5) to the packaging container (see column 5, lines 6 to 24).

Luburic, by contrast, is strictly concerned with the interface between the lid and the containers and the need to avoid the use of separate gasket members or devices at that point (Abstract and Page 1, lines 7 to 13). As such, Luburic provides a disclosure of several sealing engagements between lids and upper edges of containers. Luburic is not concerned with a self-supporting lid or a lid having any functionality beyond closure of a container. Luburic may depict a lid that comprises two parts (Fig. 1: 32,34) but the citation fails to provide any further details regarding the structure of these two parts.

Further, the teachings in Luburic, as they are asserted by the Examiner and which allegedly provides motivation to combine Luburic with the teachings in Stern et al, have not been accurately characterized by the Examiner in paragraph 17 of the official action. Page 5, line 19 of Luburic discloses that a preferred embodiment of

the lid (30) may be fabricated by injection molding. This is an ambiguous teaching and is certainly not a disclosure that a lid comprising a hinge may be so fabricated. That preferred embodiment which is injection molded may have no hinge of any kind present given that the hinge is not an important feature of the lid in the Luburic reference (page 5, line 4).

Where a hinge (31) or more specifically a hingeline (29) is included in the lid of Luburic, it is a line of relative weakness in the structure that is required only to enable the first (32) and second (34) portions to be pivoted away from each other (page 8, line 16 to 21). There is no teaching or suggestion in Luburic that the hingeline (29) could support the weight of the second portion (34) when pivoted about the hinge to open the lid or thereby support the weight and movement of a roller disposed on said second portion. In addition, there is no teaching or suggestion that the hingeline (29) of Luburic would remain liquid-tight when subjected to the stress of a roller thereon. The hinge of Luburic thus fails to provide the features required of the hinge (5, 105) as in the presently claimed invention.

Therefore, as discussed above Stern et al lack any teaching or suggestion of such hinge as one element in the claimed invention. Therefore, the combination of Stern et al and Luburic fails to teach or suggest every element of the presently claimed invention.

With respect to the rejections of claims 3, 13, and 23 applicants submit that neither Rich (for claims 3 and 13) nor Lallement (for claim 23) cures the above described failure in the teachings of the combination of Stern et al and Luburic. Accordingly, at least for the same reasons that the invention in claims 1, 2, 4-12, 14-22, and 24 is not taught or suggested by the cited reference, the invention in claims 3, 13, and 23 is also not taught or suggested by Stern et al in view of Luburic further in view of Rich or further in view of Lallement.

For at least the preceding reasons, it is respectfully submitted that these obviousness rejections have been overcome and should therefore be withdrawn.

**VII. Conclusion**

It is respectfully submitted that all pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,  
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